

Schary, Claire

From: Bobby Cochran <cochran@willamettepartnership.org>
Sent: Thursday, September 11, 2014 2:37 PM
To: Schary, Claire
Cc: Rose, Bob; Neil Mullane; Madsen, Becca
Subject: Re: Is anyone really using a "true-up" period in WQT?

Thanks gang, we'll keep it in.

On Thu, Sep 11, 2014 at 1:31 PM, Schary, Claire <Schary.Claire@epa.gov> wrote:

I would just add to Bob's arguments in favor of keeping it that in the Lower Boise Trading Framework, we had a true-up period because with monthly credit certification, we wanted to allow time for any monitoring information requiring lab analysis to be completed and the credit amount reported before a permittee reported it on their DMR. I can't remember the exact time frames, but everything ended up having to be completed about a month after the end of the measurement period.

Claire Schary

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From: Rose, Bob
Sent: Thursday, September 11, 2014 12:18 PM
To: Bobby Cochran; Schary, Claire; Neil Mullane; Madsen, Becca
Subject: RE: Is anyone really using a "true-up" period in WQT?

Bobby:

Some arguments in favor of keeping. It is a concept that exists and is out there. Maybe just caveat that it is in some sense a caveat into itself.

- Long Island Sound has a true-up, but it is not a real true-up since the net watershed reduction are already done and known, and the "true-up" is really an accounting exercise on the part of the state (CT literally tells POTW #1 you have 10 credits, and tells POTW #2 you need 10 credits and writes it all down on a ledger. CT also pays for the reductions with bonds). But it is a "true-up" in which the documented "trades" occur after the fact.
- VA has a true-up, but similar as above the state pretty much knows the end of pipe loads, and knows each PS limit, and knows the overall watershed permit cap. If we assume as VA does that the reductions do actually exist somewhere, it is really again an accounting exercise as to whose credits go to who. PSs in VA tell the state whose go to whom, whereas in CT the state tells the PSs.
- National NOX and SOx has a true-up, but again the regulator assumes that the needed reductions actually exist somewhere, and that it is mere formality that the power plants let EPA know whose credits go to whom. EPA holds back 5% of the allocations anyway, so we really do have extremely high confidence that the reductions are out there. [We use the term allocations in air the way we use credit for water, but that's a formality here.]

If (major IF) the regulator takes confidence that their program/regulation actually works (i.e., reductions are out there and if not then there is a penalty), the regular could (should) extend some temporal flexibility to the market. I don't know this for a fact, but a true-up is a feature that might be born out of a surprise surge in loads in the last months, where the PS realizes too late that they need credits. In other words it's an emergency feature at the least.

Maybe emphasize that true-up only works if the market has the proper mechanisms to have confidence that reductions will be available, in which the added temporal flexibility then becomes either an emergency feature and/or market feature.

bob

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From: Bobby Cochran [<mailto:cochran@willamettepartnership.org>]

Sent: Thursday, September 11, 2014 1:28 PM

To: Schary, Claire; Rose, Bob; Neil Mullane; Madsen, Becca

Subject: Is anyone really using a "true-up" period in WQT?

Smart friends,

We're busily putting some polish on some memos for the National Network on Water Quality Trading.

We have a section in there in "true-up" periods. I think the 2003 EPA Policy and Toolkit called them reconciliation periods.

But basically, it's a little bit of time after the compliance window, where permittees can see if they have an adequate balance of credits to offset their discharges and meet their permit requirements. We know this was important in the air program, but is it really that important in WQT? And is anybody using them?

Our smart CWA lawyers from Env. Law and Policy Center, Troutman Saunders, and The Freshwater Trust have said: Permittees are setting their credit need conservatively to cover the worst case discharge scenario (i.e., no one is playing to buy credits to meet actual discharge, they're offsetting the max discharge under the worst environmental conditions), so why need a True-Up?

And if a permittee didn't have the right number of credits in hand at the right point in time, wouldn't that be a violation--and then the agency could use its enforcement discretion based on the permittee's ability to correct its credit balance then?

Let me know. I know historically, true-ups were important, but folks are recommending we drop the section now with a quick nod to the option in the enforcement discretion discussion.

Thanks!

Bobby